

**CITY OF BEAVERTON  
STAFF REPORT AND RECOMMENDATION**

**TO:** Planning Commission

**STAFF REPORT DATE:** Wednesday, December 29, 2004

**STAFF:** Liz Jones, Associate Planner

**SUBJECT:** TA 2004-0008 (Floodplain Text Amendment)

**REQUEST:** Amendment to Section 60.10 (Floodplain Regulations) to adopt by reference the most recent study of the Federal Emergency Management Agency (FEMA) Fanno Creek floodplain which updates the Base Flood Elevation (BFE). The BFE affects how buildings within the floodplain should be safely designed and constructed.

**APPLICANT:** City of Beaverton - Development Services Division

**AUTHORIZATION:** Ordinance 2050 (Development Code), effective through Ordinance 4302)

**APPLICABLE CRITERIA:** Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

**HEARING DATE:** Wednesday, January 5, 2005

**RECOMMENDATION:** Staff recommend APPROVAL of text amendment application TA 2004-0008 (Floodplain Text Amendment)

## **I. Proposed Legislative Text Amendment**

The proposed text amendment updates Beaverton Development Code regulations that affect property within the City that is also within the floodplain of Fanno Creek. The updates are required under Federal law as explained below.

An agency of the United States Government known as the Federal Emergency Management Agency (hereinafter “FEMA”) is responsible for studying floodplains and floodways of all waters in the United States. Upon the results of their studies, FEMA composes and regularly updates the nation’s Flood Insurance Program maps.

The nation’s floodplains can change due to a wide variety of natural and man-made factors. Therefore FEMA must routinely study and update these regions to keep federal regulations consistent with conditions on the ground.

The Fanno Creek floodplain was studied and mapped as early as the 1970’s. These maps were subsequently adopted by FEMA in 1984 and updated in 1987 for Fanno Creek. The present proposal builds upon this previous history of flood studies.

FEMA has recently concluded its most recent study of the Fanno Creek floodplain and has adjusted the nationwide map as it pertains to Fanno Creek. The FEMA study updates what is known as the Base Flood Elevation, (hereinafter “BFE”) which is the level to which water is estimated to rise during a flood event. An accurate, updated Base Flood Elevation (BFE) is an important part of the Development Code because the BFE affects how buildings within the floodplain should be safely designed and constructed.

Federal law requires Beaverton to update its floodplain regulations to United States standards or risk losing the protection of the National Flood Insurance Program. Accordingly, this proposal keeps Beaverton in compliance with—and protected by—Federal statutes and regulations.

**Section 1: The Development Code, Ordinance No. 2050, Ordinance 4302, Chapter 60 – Floodplain Regulations, Section 60.10, will be amended to read as follows:**

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### **60.10. FLOODPLAIN REGULATIONS**

#### **60.10.10. Floodplain Designation.**

1. Consistent with ~~Unified Sewerage Agency~~ **Clean Water Services** Design and Construction Standards, the floodplain is the flood management area and shall include those areas identified by the

~~Federal Insurance Administration~~ Department of Homeland Security's Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Beaverton," dated ~~March 28, 1984~~ February 18, 2005, as revised ~~February 4, 1987~~, with accompanying Flood Insurance Rate Maps (FIRM), is hereby adopted by reference and declared to be a part of this ordinance. ~~[ORD 4155; April 2001]~~ Additionally, the Letter of Map Revision (LOMR), dated ~~May 25, 2000~~, In addition, the Letter of Final Determination, dated August 18, 2004, with accompanying Flood Insurance Rate Maps, flood profiles, and related data for Beaverton and Washington County, effective February 18, 2005, revises portions of the ~~1984 and 1987 studies and maps, and~~ previous studies and—along with previous versions of the same incorporated into that document—is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and revisions are on file with the City Engineer and the City Recorder. (ORD 3563) [ORD 4130; November 2000] When base flood elevation data has not been provided in accordance with this section, the City ~~may~~ shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer City of Beaverton Code Section 9.05.060, subsections A and D, relating to site development. (ORD 3563)

2. When interpretation is requested by a property owner, or designee concerning the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the City Engineer may request the concerned person provide a detailed hydraulic data report prepared by a registered engineer with background in the area of hydraulics. This report shall include, but is not limited to, water profiles and discharge rates for the channel and the hydrology for the tributary areas. After review of the available data the floodplain elevation shall be established by the City Engineer. A person dissatisfied with the City Engineer's decision may appeal that decision in the same manner as provided in Beaverton Code Section 9.05.091. (ORD 3563) [ORD 4155; April 2001]

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The proposed amendments to the Development Code text as shown above are attached in Exhibit 1.1.

## **II. Facts and Findings**

Section 40.85.15.1.C of the Development Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA 2004-0008 (Floodplain Text Amendment):

### **1. The proposal satisfies the threshold requirements for a Text Amendment application.**

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Development Code, excluding changes to the zoning map. TA 2004-0008 (Floodplain Text Amendment) proposes to amend Section 60.10 of the Beaverton Development Code currently effective through Ordinance 4302 (June 2004). Therefore, staff find that approval criterion one has been met.

### **2. All City application fees related to the application under consideration by the decision-making authority have been submitted.**

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City initiated application are not required where the application fee would be paid from the City's General Fund. The Development Services Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required. Staff find that approval criterion two is not applicable.

### **3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.**

Metro's Urban Growth Management Functional Plan is comprised of the following titles:

Title 1: Requirements for Housing and Employment Accommodations

Title 2: Regional Parking Policy

Title 3: Water Quality and Flood Management Conservation

Title 4: Retail in Employment and Industrial Areas

Title 5: Neighbor Cities and Rural Reserves

Title 6: Regional Accessibility

Title 7: Affordable Housing

Title 8: Compliance Procedures and

Title 9: Performance Measures

TA 2004-0008 proposes to amend Development Code Section 60.10 to adopt by reference the most recent study of the Federal Emergency Management Agency (FEMA) Fanno Creek floodplain which updates the Base Flood Elevation (BFE). The BFE affects how buildings within the floodplain should be safely designed and constructed.

The City is required by Federal Law to update its floodplain regulations to Federal standards or risk losing protection in the National Flood Insurance Program. Metro's Title 3 applies to development in Flood Management Areas, which are identified on the Metro Water Quality and Flood Management map. The City of Beaverton is in compliance with Metro's Title 3 through our adoption of Clean Water Services (CWS) regulations for development within floodplains and management areas. The subject text amendment is to update the actual floodplain maps which could result in changes to Metro's Water Quality and Flood Management map by either adding or removing land within the floodplain. Therefore, the proposed text amendment is to comply with Federal standards and will result in a map which is current and still in compliance with Metro's Title 3. Therefore, staff finds that approval criterion 4 has been met.

**4. The proposed text amendment is consistent with the City's Comprehensive Plan.**

The proposed text amendment will not change the intent of the existing Development Code regulations, such that goals and policies of the Comprehensive Plan will be impacted. Rather, the adoption of the updated FEMA maps will provide consistency between Comprehensive Plan goals and policies, specifically, the Environmental Quality and Safety Element and Development Code standards.

Chapter 8 – Environmental Quality and Safety Element

*8.7.1 Goal: Maintain the functions and values of floodplains, to allow for the storage and conveyance of stream flows and to minimize the loss of life and property.*

The proposed text amendment is to adopt the most recent FEMA study of the Fanno Creek floodplain which adjusted the nationwide map as it pertains to Fanno Creek. The study updates the Base Flood Elevation (BFE), which is the level to which water is estimated to rise during a flood event. The BFE affects how buildings within the floodplain should be safely designed and constructed. Through the adoption of the updated FEMA maps, the proposed text amendment will provide consistency between the Comprehensive Plan and the Development Code. Therefore, staff finds that approval criterion 4 has been met.

**5. The proposed text amendment is consistent with other provisions within the City's Development Code.**

The proposed amendments do not create impacts or conflicts with other provisions within the Development Code. This text amendment proposes substantially similar language for floodplain regulations and will update the existing language to make it current with Federal standards. Staff find that proposed amendments are consistent with the other provisions of the Development Code. Staff find, therefore, approval criterion five has been met.

**6. The proposed amendment is consistent with all applicable City ordinance requirements and regulations.**

The current Development Code and Ordinance No. 4187, which adopted the current Comprehensive Plan, are applicable to the proposed text amendment and are addressed in the findings of fact for approval criterion four and five. Staff did not identify any other applicable City ordinance requirements and regulations that would be affected by or would conflict with the proposed text amendments. Therefore, staff find that approval criterion six has been met.

**7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.**

Staff have determined that there are no other applications and documents related to the request that will require further City approval. Therefore, staff find that approval criterion seven has been met.

### **III. Conformance with Statewide Planning Goals**

Because the proposal is for a text amendment to the Development Code, a demonstration of compliance with the Statewide Planning Goals is not required. ORS 197.225 requires that Statewide Planning Goals only be addressed for Comprehensive Plan Amendments. Nevertheless, the Statewide Planning Goals are useful to support the City's position on the proposed amendments. The proposed text amendment's conformance to relevant Statewide Planning Goals is briefly discussed below:

#### **GOAL ONE - CITIZEN INVOLVEMENT**

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The City is in compliance with this Statewide Planning Goal through the establishment of a Committee for Citizen Involvement (CCI). The City has gone even further by establishing Neighborhood Association Committees (NACs) for the purpose of providing widespread citizen involvement, and distribution of

information. The proposed text amendments to the Development Code will not change the City of Beaverton's commitment to providing opportunity for citizen involvement, or place the City out of compliance with Statewide Planning Goal One.

## GOAL TWO - LAND USE PLANNING

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The City of Beaverton has adopted a Comprehensive Plan that includes text and maps (Ordinance 1800, and most recently amended by Ordinance 4187) along with implementation measures such as the Development Code (Ordinance 2050, effective through Ordinance No. 4302). These land use planning processes and policy framework form the basis for decisions and actions, such as the subject text amendment proposal. The proposed Development Code amendment has been processed in accordance with Section 40.85 (Text Amendment) and Section 50.50 (Type 4 Application) of the Development Code. Section 40.85 contains specific approval criteria for the decision-making authority to apply during its consideration of the text amendment application. Section 50.50 (Type 4 Application) specifies the minimum required public notice procedures to insure public input into the decision-making process. The City of Beaverton's Comprehensive Plan is consistent with Statewide Planning Goal 2.

## **IV. Conclusion and Staff Recommendation**

Based on the facts and findings presented, staff conclude that the proposed amendment to the Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7. Therefore, staff recommend the Planning Commission **APPROVE** TA 2004-0008 (Floodplain Text Amendment) at the January 5, 2004 regular Commission hearing.

## **V. Exhibits**

Exhibit 1.1 Proposed Text Amendment

Exhibit 1.2 FEMA Floodplain Map illustrating taxlots that intersect either the old or new FEMA 100 year floodplain that are in Beaverton